

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ALBERTO REYES, JR.,

Plaintiff,

vs.

LINCOLN AUTOMOTIVE FINANCIAL
SERVICES,

Defendant.

ANSWER

Civil Action No.:
9:15-CV-00560(LDW)(ARL)

Defendant Ford Motor Credit Company LLC (“Ford Credit,” incorrectly sued as Lincoln Automotive Financial Services which is a registered trade name of Ford Credit), by its attorneys, Phillips Lytle LLP, answering plaintiff’s complaint, states upon information and belief:

1. Ford Credit denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 2, 4, 6, 7, 8, 10, 14, 15, 16, 21, and 25, except to the extent any of those allegations call for a legal conclusion, in which case no response is required, and to the extent that any allegation references a written document, to which Ford Credit refers the Court for its terms.

2. Ford Credit denies the allegations in paragraphs 1, 3, 5, 9, 11, 12, 13, 17, 18, 19, 20, 22, 23, and 24, except to the extent that any allegation calls for a legal conclusion, in which case no response is required.

3. Ford Credit denies every other allegation not admitted or otherwise addressed above.

FIRST DEFENSE

4. Plaintiff fails to state a claim against Ford Credit upon which relief may be granted.

SECOND DEFENSE

5. Plaintiff failed to mitigate any damages he may have sustained.

THIRD DEFENSE

6. To the extent that a trier of fact may find any violation of the Fair Debt Collection Practices Act, such alleged violation being expressly denied by Ford Credit, liability against Ford Credit for any such alleged violation is barred by 15 U.S.C. § 1692k(c).

FOURTH DEFENSE

7. Plaintiff's claims are barred by applicable statutes of limitations.

FIFTH DEFENSE

8. Plaintiff's claims are barred or diminished by Ford Credit's rights to a setoff and/or recoupment, arising from Plaintiff's defaults, deficiencies, or other indebtedness, with respect to his obligations to Ford Credit.

SIXTH DEFENSE

9. Plaintiff's claims are barred by the doctrine of unclean hands.

COUNTERCLAIM

10. On or about June 29, 2012, Plaintiff leased a new 2012 Lincoln MKZ (the "Vehicle") from Bassett Lincoln Mercury. A copy of the Motor Vehicle Lease Agreement (the "Lease") for the Vehicle is attached as **Exhibit A**.

11. The Lease was assigned to Ford Credit.

12. Plaintiff breached the Lease by failing to make payments to Ford Credit when due.

13. Because of Plaintiff's breach of the Lease, Ford Credit is entitled to demand the entire balance owed by Plaintiff under the Lease, and further, to take possession of the Vehicle. See Exhibit A, ¶ 35.

14. As of February 19, 2015, Plaintiff is liable to Ford Credit in the total amount of \$25,468.90 under the Lease.

15. Accordingly, Ford Credit respectfully requests an order granting it possession of the Vehicle, judgment against Plaintiff for \$25,468.90, plus: (i) contractual and statutory interest from the date of Plaintiff's default under the Lease through the date of entry of judgment; and (ii) Ford Credit's costs, expenses, and attorneys' fees incurred as a result of Plaintiff's default.

WHEREFORE, Ford Credit demands judgment against Plaintiff dismissing the complaint, with prejudice, and awarding it costs, attorneys' fees, and such other and further relief as the Court deems proper; and on its counterclaim, an order granting it possession of the Vehicle, and a judgment against Plaintiff for \$25,468.90, plus: (i) contractual and statutory interest from the date of Plaintiff's default through the date of entry of judgment; and (ii) Ford Credit's costs, expenses, and attorneys' fees incurred as a result of Plaintiff's default.

DATED: Buffalo, New York
March 4, 2015

PHILLIPS LYTLE LLP

By /s/ Paul Morrison-Taylor
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CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2015, I electronically filed an Answer to the Complaint against Ford Credit with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to the following:

TO: M. HARVEY REPHEN & ASSOCIATES, P.C.
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